DOCUMENT RESUME

ED 414 032 PS 026 001

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TITLE Welfare Block Grant Basics: Q and A with National Experts. Child Care Action Campaign Issue Brief #6.
INSTITUTION Child Care Action Campaign, New York, NY.
PUB DATE 1997-00-00
NOTE 9p.
AVAILABLE FROM Child Care Action Campaign, 330 Seventh Avenue, 17th Floor, New York, NY 10001; phone: 212-239-0138; fax: 212-268-6515 ($3, prepaid).
PUB TYPE Guides - Non-Classroom (055)
EDRS PRICE MF01/PC01 Plus Postage.
DESCRIPTORS Block Grants; *Child Advocacy; Child Welfare; *Day Care; *Federal Legislation; Financial Support; Immigrants; Public Policy; Social Services; *Welfare Services
IDENTIFIERS *Personal Responsibility and Work Opp Recon Act; Welfare Reform

ABSTRACT

This Child Care Action Campaign (CCAC) issue brief details an audio conference convened by CCAC and the Child Care Law Center. Issues discussed include changes and implications resulting from the passage of the Personal Responsibility and Work Opportunity Reconciliation Act. Areas covered, in a question-and-answer format, include: (1) Temporary Assistance for Needy Families (TANF) and how it replaces AFDC, Emergency Assistance, and JOBS (Job Opportunities and Basic Skills) program allocation with block grants to states; (2) work requirements for both states and individuals; (3) funding particulars; (4) child care quality; (5) child care funding; (6) child and adult care food programs; (7) the new law's impact on child care for immigrants; and (8) suggestions for child care advocates on how to influence decisions. (MT)

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Welfare Block Grant Basics: Q & A with National Experts

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Overview

Under the Personal Responsibility and Work Opportunity Reconciliation Act (Public Law 104-193), enacted in August 1996, the federal government has abandoned its guarantee of minimal protection for dependent children by turning over welfare resources and responsibility to the states. It will take months, if not years, to decipher and clarify the obscurities of this legislation.

Even some of the basics are hard to understand because they are expressed in technical and legal language. To help untangle some of these complexities and provide simple answers to often-asked questions, CCAC and the Child Care Law Center convened an audioconference for a national audience of 800 child care advocates and administrators on September 27, 1996.

Featured presenters were Helen Blank, Children's Defense Fund; Abby Cohen and Jo Ann Gong, Child Care Law Center; Mark Greenberg, Center for Law and Social Policy; and Barbara Reisman, Child Care Action Campaign. The format was a series of questions and answers, which are edited and somewhat reorganized in this Issue Brief.

Temporary Assistance to Needy Families

What is TANF?

TANF, Temporary Assistance for Needy Families, is a federal program that guarantees block grants to states to provide assistance to impoverished families with dependent children. TANF block grants combine what were formerly AFDC, Emergency Assistance, and JOBS allocations and cap them at a fixed dollar amount. A state's total yearly TANF allocation through 2002 approximately equals the greatest of the following: 1) the average of federal payments for these programs in fiscal years 1992 to 1994; 2) federal payments in FY 1994; or 3) federal payments in FY 1995.

In order to receive its maximum TANF allocation, a state must meet federal work participation requirements and must limit benefits to certain groups of recipients. It must also maintain 80% (or, under circumstances, 75% of its 1994 spending level on programs, which actually permits states to reduce their levels of spending on the block granted programs, compared to expenditures of the past five years.

How is TANF different from AFDC?

Unlike AFDC, under TANF dependent children no longer have a guarantee of cash assistance. The new law gives states enormous flexibility to spend money, set eligibility requirements, and provide assistance, or not, as they choose, according to the work schedules of parents, not the needs of children. Also unlike AFDC, under TANF states are prohibited from using federal funds to provide cash assistance to any individual whose cumulative time on welfare equals 60 months. Subject to exceptions applicable to 20% of recipients, stringent work-participation requirements are also specified.

What are the work requirements?

Parents must participate in "work activities" after receiving aid for 24 months (whether consecutive or not). Every state has broad discretion in deciding how to define "work activities." States must also meet "participation rate requirements": in 1997, at least 25% of all families on welfare must be in jobs or participating in specified work activities. The required participation rates rise by 5% each year to 50% in 2002 and thereafter.

Will individuals have to work full time in order to meet work requirements?

Generally, work requirements start at 20 hours a week in 1997 and will increase to 30 hours a week in 2000 and thereafter. The major exception is for single parents with children under six. States cannot require them to work more than 20 hours a week.

Are the TANF work requirements measured in the same way as in the JOBS program?

No. In the JOBS program, states could "combine and average" all hours worked by all participants in the program. A 20-hour requirement could be met if half the participants worked 10 hours and the other half worked 30 hours. Under TANF rules, however, every individual to be counted toward the state goal must work at least 20 hours per week.

What happens if a state doesn't meet the work participation requirements?

During the first year of noncompliance, the U.S. Department of Health and Human Services can reduce the state's TANF block grant by as much as 5%. In every succeeding year that the state falls short, the penalty can increase by 2% of the TANF allocation until reaching 21%.

What happens to individuals if they don't go to work?

States have broad flexibility to reduce or terminate cash assistance to individuals who have not exhausted the five-year federal limit—whether for reasons related to work activities or some other aspect of eligibility.

Are states required to find or create jobs for welfare recipients?

No. The law does not require states to provide work for welfare recipients. States can *choose* to run work training programs. They can *choose* to put their block grant resources into job placement and job development. And they can *choose* to create public sector jobs for those who cannot find work otherwise. But states are not *required* to do any of the above.

Under TANF, can parents of very young children be exempt from the work requirements, as under the JOBS program?

The new law provides limited exemptions for parents of young children.

- Single parents of children under 12 months can be exempted from work participation, but only if states write a specific provision to allow it in their state plans. The TANF 60-month lifetime limit will apply to individuals who take this exemption, but the exemption will not lower the state's work-participation rate.
- A single parent of a child under age six who is unable to obtain "appropriate" child care "within a reasonable distance" (as determined by the state) cannot be penalized by a state for failure to engage in work activities. Here again, the time during which the parent is exempt counts against the TANF 60-month lifetime limit.

Child Care Funding and Other Child Care Provisions

Is there enough child care money in this law to cover the needs of the 50% of welfare recipients who must be participating in work activities by 2002?

States no longer have open-ended access to federal child care funding for families on, or moving off, welfare. Yet states could get as much as $6.6 billion more child care funding over the next six years, compared to projected increases for the same period before the passage of PL 104-193.

The absolute dollars may be $4 billion more, but compared to need this increase has been projected to be $1.4 billion short over six years. The Congressional Budget Office projects an eventual shortage of child care funding for the sharply rising demand by welfare-to-work families. Factors that will influence the outcome include the%age of welfare recipients who actually find work or participate in eligible "work activities;" whether states exempt parents of children under age one; the extent to which states use TANF funds to pay for child care; the extent to which states use Title XX funds not previously allocated for child care or continue to use Titlel XX for child care; and the size of state allocations for child care for low-income working families.

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As states seek to meet the demand of welfare-to-work families, subsidies for other low-income working families may actually diminish. Federal funding will come nowhere near meeting the child care needs of all low-income working families. In the past, families receiving welfare and working, as well as those leaving welfare, were guaranteed child care assistance. As a result, in 38 states, there are already long waiting lists of families who are eligible for employment-related child care subsidies.

What child care funding is provided by PL 104-193?

The Act provides two sources of federal funding for child care: the new Child Care and Development Block Grant (CCDBG) described in Title VI of the Act; and the TANF block grant described in Title I. The new CCDBG consolidates the old CCDBG and the Title IV-A programs (AFDC-Child Care, At-Risk Child Care, and Transitional Child Care) into one block grant having two portions.

Discretionary. States will receive a total of $1 billion for each of the fiscal years 1996 through 2002, subject to annual appropriation by Congress. This is, in effect, the "old CCDBG."

Mandatory and Match. States will also receive funds that are automatically available every fiscal year through 2002. One portion of these—a base amount—requires no state match. It is equal to the highest of the federal amounts a state received for all three IV-A programs in fiscal year 1994, fiscal year 1995, or the average of fiscal years 1992-1994.

A second portion is automatically available if states meet the following conditions:

- state expenditures on child care equal 100% of the state portion of IV-A child care expenditures in fiscal year 1994, or 1995, or 1992-1994, whichever was higher;
- the obligation of all federal child care funding within the fiscal year for which it was allocated; and
- the commitment of matching funds at a rate equal to the Medicaid rate.

The total federal appropriation for mandatory and matching grants starts at about $2 billion in fiscal year 1997 and rises to $2.7 billion in fiscal year 2002. Funds that states fail to obligate (from the mandatory stream) or match will be reallocated to other states. States can also use funding from the TANF block grant to pay for child care. They can withdraw these funds to pay for child care directly from the TANF pool, or they can transfer up to 30% of TANF funding into the CCDBG to expand that pool of funding.

Should TANF funds be spent directly for child care or should they be transferred to the CCDBG?

It appears that a family receiving any assistance funded directly by the TANF block grant will be subject to the 60-month lifetime limit, the TANF work requirements, and the TANF child support requirements. However, if the funding is transferred from TANF to the CCDBG, it will be subject to the CCDBG rules, which include health and safety standards. Thus states have more flexibility, families are under less stress, and children are likely to be in better care, if a state transfers TANF child care funding into the CCDBG.

What happens if states fail to obligate federal child care money?

If a state fails to obligate its mandatory funding and if it fails to draw down the total matching funds available to it during a fiscal year, HHS can redistribute the funding to other states during the following fiscal year, based on the number of children residing in all states applying for the funds.

Is there a federal child care guarantee for families on or transitioning off of AFDC?

No. These guarantees have been abolished. It is now up to states to decide which families

will be eligible for child care assistance and for how long. However, federal law requires that a state use "no less than 70%" of mandatory and match funds combined to provide child care assistance to families who are seeking to leave welfare for work and to families who are at risk of becoming dependent on cash assistance.

Does the new law have a quality set-aside?

Yes. States must use at least 4% of the entire CCDBG funding (discretionary, mandatory, and federal and state portions of the match combined) for activities to improve child care quality, for example by providing consumer education, increasing parent choice, or directly increasing child care quality and availability (including the support of resource and referral services). Any funds transferred from TANF into the CCDBG are subject to the 4% set-aside.

What are the health and safety requirements?

Under the Act, states must "certify" that state and local requirements are in effect to protect the health and safety of children, and that these requirements are applicable to providers of services for which CCDBG funding is available. The state must also certify that all providers receiving CCDBG funds comply with all applicable state or local health and safety requirements. States can continue to exempt certain relatives from health and safety requirements, and this exemption has been expanded to include great-grandparents and siblings who live in a separate residence. All providers receiving CCDBG funds, except certain relatives, must meet health and safety standards, including the prevention and control of infectious diseases (including immunizations), building and physical premises safety, and minimum health and safety training.

What about parental access to child care settings?

The law requires that parents have unlimited access to their children during child care hours, and requires the state to maintain records of parent complaints.

Must states guarantee parents a choice of child care arrangements?

The new CCDBG, like the old, requires that all states provide some child care assistance through a certificate or voucher system, which permits parents to use the subsidy toward the purrchase of care. In addition, the Act requires states to "ensure equal access" for subsidized children to the full range of services available to nonsubsidized children. (See market rate section, below.)

Do states have an obligation to inform parents about their child care choices?

Yes. Each state's plan must "certify" that the state is collecting and disseminating information that will promote "informed child care choices" by parents.

Must states base reimbursement rates on the market rate for child care services?

No. The Act eliminates the market rate requirement. However, states must ensure equal access for eligible children to child cares services comparable to those received by non-subsidized children. States must include in their plans a summary of the facts that they used to determine equal access.

Is there funding for administrative costs in the new CCDBG?

Yes. Administrative expenses will be capped at five percent of the total CCDBG. Expenditures for the following activities will *not* be considered administrative costs: eligibility determination and redetermination; preparation for and participation in judicial hearings; child care placement, recruitment, licensing, and inspection; supervision of child care

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placements; rate setting; resource and referral agency services; training; and the establishment and maintenance of computerized child care information.

Are the new CCDBG reporting requirements different from the old ones?

The new reporting requirements are much more detailed. There will be monthly collection and quarterly reporting of information regarding the families receiving assistance. Additional reporting on a number of items is required every six months. States will be required to report the total number of children and families receiving child care services, the number of providers receiving funding, the total monthly cost of child care services by type of child care, the number of payments made for each of various methods of providing the services, new provision of services, and the manner in which consumer education is provided.

States are going to be doing a lot of automation to fulfill these reporting requirements, but the automation will not be considered an administrative expense under the new law. States will also be gathering a lot more detailed information about child care, and it will be incumbent upon advocates to figure out how to make the best use of this information in ongoing monitoring of the CCDBG program and its impact on child care in the states.

Child and Adult Care Food Program and Immigrant Provisions

How does the new law affect the Child and Adult Care Food Program?

The welfare bill contained close to $3 billion in reductions in funding over six years for the Child and Adult Care Food Program. In a major victory for advocates, the entitlement status of the food program was maintained, but the law divides family child care homes into two "tiers" to which different reimbursement rates apply.

Providers who reside in a low-income geographic area where at least 50% of families have incomes below 185% of poverty, or whose own household income falls below 185% of poverty, will constitute Tier 1 providers. Tier 1 providers will continue to receive reimbursements as under the current system, which means they receive one rate for all children regardless of income, and that rate will be similar to the rate under the old system.

Providers who live outside of low-income areas and have household incomes above 185% of poverty constitute Tier 2. Tier 2 providers will receive significantly reduced reimbursements, for example 27 cents per breakfast instead of 86.25 cents. Tier 2 providers who choose to implement a means test can get "Tier 1" rates for all those children whose family incomes are below 185% of poverty. These provisions will begin on July 1, 1997. In addition to the reimbursement changes, the requirement to conduct outreach to expand participation of children from families with incomes below 185% of poverty has been eliminated, as has the option of serving an additional meal or snack to children who remain in centers for more than eight hours. Taken as a whole, these new provisions are likely to undermine the precarious budgets of many family child care homes and to reduce a significant incentive for homes to become regulated.

What is the law's impact on child care assistance for immigrants?

"Unqualified" immigrants (undocumented and some other categories), will in most states be ineligible for a wide variety of public benefits, including cash assistance, health, disability, and any other "similar federal public benefits." They are also denied access to any "state and local benefits" unless the state passes a law providing for eligibility. Under these provisions, unqualified or undocumented children will not be able to receive any federal child care benefits unless states can demonstrate an exception under Section 433, which explains that the law does not deny access for immigrants to "basic public education." For example, if a state takes the position that its health care programs in the public schools constitute a part of the basic public education of immigrant children and all other children in the state, it may be able to keep them open to unqualified or undocumented children.

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"Qualified" (i.e. documented) immigrants, who entered the U.S. before August 22, 1996, are ineligible for food stamps and Supplemental Security Income (SSI). States have the

option to deny them Medicaid, TANF, and Title XX, as well as state public benefits. "Qualified" immigrants who arrived on or after August 22, 1996, are ineligible for five years for all federally means-tested public benefits, and the law gives states the authority to limit state benefits to them. HHS has not yet determined whether child care is a "means-tested public benefit." As child care providers, "unqualified" immigrants will be ineligible for licenses because the law explicitly counts a professional license as a federal public benefit. Constitutional challenges to this provision are expected on the ground that the federal government has no authority to prevent states from granting licenses. "Qualified" immigrants are still eligible for licenses, even those who arrived after August 22, 1996, because a license is *not* a means-tested public benefit.

State Plans and Advocacy Opportunities

Which state agency will administer the CCDBG?

States must designate a single lead agency to administer all or part of the funds under the new CCDBG. They may also devolve administrative authority to regional or local public agencies or contract with private entities to administer child care programs.

How can states use federal child care funds in the short term?

There may be a $600 million increase for child care nationally in 1997. It is important that states spend these funds. States can use the extra funding to provide child care assistance for the working poor. States can also use it to build child care capacity by developing child care supply, helping family child care providers get started, and training child care providers, so there is enough child care and enough well-trained providers to meet the demand as it grows in successive years. Other ideas for "one-time" investments of child care funds include resource and referral, training, and consumer education. States should commit all available federal funding in fiscal year 1997.

How can advocates influence decisions about child care in their states?

This is a critical time for concerted advocacy on child care, as state and community leaders struggle to meet child care demands posed by the new welfare law. Although many states will have more money to spend on child care during the next two years, in the long run they will confront tighter resources and tough choices:

- Will they give priority for subsidies to families moving from welfare to work and put low-income working families on a waiting list for child care support? (Thirty-eight states and the District of Columbia already have waiting lists thousands of names long of families who are eligible for child care support but for whom there is not sufficient funding.)
- Will they maintain or improve consumer protection and licensing, or will they cut corners on health, safety, and quality assurances to parents?
- Will they stretch out the current pool of funding by reducing reimbursement rates for providers, or will they increase the pool of funding through state allocations and public-private partnerships?
- Will they allocate sufficient state funds to draw down all federal dollars for which they are eligible and then supplement these with state funds to ensure that all families who need it, receive help bridging the gap between the cost of good quality child care and what they can afford?

Although many key decisions must be made by July 1, 1997, when state TANF and child care plans must be submitted to the Federal government, these big issues will be far from resolved. States will be confronting new issues and re-examining familiar ones as the true scale and impact of the new law become increasingly apparent. There will be plenty of opportunity to influence the evolution of state policy. Child Care advocates should keep active in the following ways:

- Be at the table as TANF implementation evolves. Many TANF decisions will directly affect child care demand and resources available to meet that demand.

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- Urge state legislatures and governors to put up the required match and allocate and draw down all of the available federal funds. In the past, some states did not take full advantage of federal child care money because they did not provide a sufficient match. It is critical that states draw down all available child care money to show national and state legislators that it is all needed and can all be used.
- Get together with each other and with Head Start and pre-kindergarten colleagues, and with people working on the TANF welfare issues, and child support. Set priorities and approach decision makers at the state and local level with a clear united agenda that will protect children and help families.
- Focus on bringing other partners, especially employers, into the discussion. In states with tight labor markets and/or expanding service sector employment, employers have an interest in ensuring access to child care for entry-level workers who are earning relatively low wages. Some of these workers have been receiving state-funded child care assistance, and their employers have an interest in seeing that they continue to receive such assistance. Advocates can continue to make the case that low-income working families need help paying for child care, whether or not they've ever been on welfare, and that states should be working toward a system in which all families at a particular income level are eligible for child care assistance.

How can advocates influence rates and parent fees?

Federal law no longer requires subsidies to be pegged to local market rates, but states must show what factors they will use to ensure equal access to different types of care. Advocates should make the case to continue market rate surveys, because they are the most reliable way to demonstrate that families do have equal access. States should also set reimbursement rates to providers high enough to ensure that providers will accept all children, and will not exclude children whose parents are receiving child care subsidies.

Advocates should continue to argue for differential rates that give higher rates to providers supplying higher quality care. Many children on welfare with special needs will need enriched child care, which is more expensive to provide, and providers will need to receive higher rates to support enriched services and to care for very young children. Advocates should also study how their state sliding fee scales are designed. Higher parent co-payments for regulated care may force low-income parents to choose less expensive care when it is not their first choice, and may harm their children.

Through September 1997, states have extra money for child care and for investments in quality because they received their 1996 funding for the old CCDBG in October 1996, of which 25 percent must be used for quality improvement and supply building activities. In addition, states must use 4 percent of all 1997 child care funds (including those transferred out of TANF) for quality improvements. Moreover, a $19 million set-aside available October 1, 1996 replaced the Dependent Care Block Grant, and can be used for school-age care and resource and referral activities.

States should consider expanding the supply of child care during non-traditional work hours for the increasing number of families who will need it. Because teen parents must attend school or be getting a GED to receive TANF assistance, more child care programs should be developed in or near high schools. Advocates should also urge expansion of Head Start/child care partnerships, and the use of child care funds to "wrap around" Head Start or state pre-kindergarten programs so that parents' working hours can be accommodated.

States also have numerous opportunities for using funding to improve child care quality. These include strengthening career development systems, supporting child care resource and referral agencies, developing parent education activities, and improving state licensing.

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Issue Brief

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